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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,274	10/29/2003	Mitsuo Watanabe	1341.1163	2798

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EXAMINER

CAPUTO, LISA M

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/694,274	Applicant(s) WATANABE ET AL.	
	Examiner Lisa M. Caputo	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received..
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4 February 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 3, 5, 7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent No. 6,327,576) in view of Button et al. (U.S. Patent No. 5,786,584, from hereinafter "Button").

Ogasawara teaches a system and method for managing expiration-dated products utilizing an electronic receipt. Regarding claims 1, 5, 9, and 11, Ogasawara teaches a bar code reader and method having an arrangement to communicate with a host apparatus in a POS system (POS terminal 10) that comprises a read unit (bar code scanner 12) that reads a bar code attached to an article, and outputs bar code information corresponding to the read bar code, a term information acquisition unit (store server 14, database 16) that acquires term information included in the bar code information, a term expiration check unit (PLU table fields of database 16 include both expiration date information and freshness period information; in addition, in the home environment, the electronic receipt retrieval and processing for expiration date management is preferably performed by a home terminal unit 24) that checks whether the term of the article has expired based on the term information, and a notification unit (electronic receipt 18 employed as a conventional paper receipt or IC card, and display screen 60) that notifies that the term of the article has expired upon determination by the term expiration check unit that the term of the article has expired (see Figure 1, col 3 line 22 to col 7 line 46). In addition, Ogasawara teaches that an item information database need not be hosted on a platform server but might be stored locally at each checkout station or POS terminal (see col 8, lines 5-20). It is well known that a barcode reader is a main component of a checkout station or POS terminal.

Regarding claims 1, 5, 9, and 11, Ogasawara fails to teach that the barcode reader itself contains the equipment to be able to utilize the term information acquisition unit, term expiration check unit, and notification unit in addition to a read unit that reads the barcode.

Button teaches a vial and cartridge reading device. Button teaches that a scanner 66 reads a bar code 53 on a medicine vial. The signal 80 outputted from the scanner 66 is transmitted to the microcomputer 59 which compares the signal to stored patterns and the microcomputer outputs a speech output signal 82 to the speaker 72 to broadcast an audio message of what is in the medicine vial (see Figure 6, col 7 line 60 to col 8 line 20). Hence, Button teaches that a barcode is scanned locally and is able to discern information about a certain product to display, which is applicable to being able to read term expiration data.

In view of the teaching of Button, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a database in the memory of a barcode scanner so that all of the information is conveniently located and does not have to be obtained by accessing a host terminal, which may not be feasible if the transmission units are down. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara because Ogasawara already teaches a barcode reader that is able to read information from a barcode that contains the expiration and freshness information without having to access a remote system and by using the teaching of Button, it is shown that one can indeed have a self-standing barcode reading system with all information received at the local apparatus.

Regarding claims 3 and 7, Ogasawara teaches the use of a transmission unit that transmits the bar code information to the host apparatus upon determination that the term of the article has expired (the bar code information scanned from each particular item is transmitted to a store platform computer 14) (see Figure 1, col 3).

4. Claims 2, 4, 6, 8, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara as modified by Button and further in view of Waxelbaum et al. (U.S. Patent No. 6,308,893, from hereinafter "Waxelbaum"). The teachings of Ogasawara as modified by Button have been discussed above.

Regarding claims 2, 6, and 10, although Ogasawara/Button does indeed teach that expiration dates are calculated based on the current date settings and that the term expiration check unit checks whether the term of the article has expired based on a comparison of the present date with the term information, Ogasawara/Button fails to specifically teach that the bar code reader has a timer unit that keeps record of the present date.

Waxelbaum teaches methods for using a barcode reader in transactions. Waxelbaum discloses that a clock 240 may be included in the circuitry of the code reader. The clock may be employed, for example, to periodically awaken the code reader at scheduled times or intervals for data downloading. The clock may also be connected to a display (not shown) so that the code reader can be used as a time piece (see Figure 10, col 9, lines 5-10).

In view of the teaching of Waxelbaum, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara/Button

to have an additional unit that keeps the record of the present date, since this piece of information is a necessary component to figuring out if a product is expired. It is appropriate to combine Waxelbaum with Ogasawara/Button because both systems teach the use of bar code apparatus and method to obtain expiration information for products.

Regarding claim 4, Ogasawara/Button teaches that as an alternative to database or PLU table entry, an item's expiration date and/or freshness period information may be embedded or appended to machine readable item identification means (bar code or RFID tag) affixed to an item's packaging. Expiration date information and/or freshness period information might be provided as part of an extended bar code or as a second bar code printed on the product packaging as the item is ready to ship. Likewise, expiration date information and freshness period information might be appended to the conventional information provided in an RFID tag. Thus, rather than defining a link to the expiration date and freshness period information contained in the database, an item's bar code and/or RFID tag contains all of the requisite information associated to that item (see Ogasawara col 7, lines 54-67). Hence, Ogasawara/Button teaches that a date setting bar code is employed for the expiration date and/or freshness period.

Regarding claims 8 and 12, Ogasawara/Button fails to teach that the present date data is set in the timer unit.

Waxelbaum teaches methods for using a barcode reader in transactions. Waxelbaum discloses that a clock 240 may be included in the circuitry of the code reader. The clock may be employed, for example, to periodically awaken the code

reader at scheduled times or intervals for data downloading. The clock may also be connected to a display (not shown) so that the code reader can be used as a time piece (i.e. using the current date) (see Figure 10, col 9, lines 5-10).

In view of the teaching of Waxelbaum, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a date setting unit that also records the current date, in addition to the expiration date/freshness period dates so that all of the information is comprehensive and able to be accessed quickly for a determination of a product validity (i.e. expired or not).

Response to Arguments

5. Applicant's arguments filed 4 February 2005 have been fully considered but they are not persuasive.

6. In response to applicant's arguments that the rejection of claims 1, 3, 5, and 7 by Ogasawara in view of Button is improper, examiner respectfully disagrees and submits that there is indeed a reasonable chance of success to modify a conventional scanner as taught by Ogasawara to employ a database in the memory of a barcode scanner because in this way, data can be stored safely and efficiently even if the transmission connection to a host database is not in working order. The database in the memory of the barcode scanner does not have to replace, but simply enhances the conventional host system by having a back-up data system. In response to applicant's argument that there is no motivation to combine a system for managing expiration dated products utilizing an electronic receipt as taught by Ogasawara with a "nonanalogous" reading device providing audio feedback for a blood glucose monitoring system as taught by

Button, examiner respectfully disagrees and submits that although Button does teach that an application for use with the invention deals with blood glucose monitoring, the crux of the invention is a scanner that can read a barcode on a medicine vial and is able to access data already stored within the scanner. With this function, it is indeed proper to combine Button with Ogasawara. In addition, examiner respectfully submits that there is indeed a showing of an incentive or motivation to modify Ogasawara with Button because it is favorable to be able to have a redundant system of information (i.e. the host apparatus stores information, as well as memory within the actual barcode scanner) so that in a case of malfunction, data will not be lost. Hence, prima facie obviousness is established and the 35 U.S.C. 103 rejection stands.

In response to applicant's arguments pertaining to claims 2, 4, 6, and 8, that Waxelbaum merely teaches a clock and the combination of Ogasawara/Button/Waxelbaum does not teach a bar code reader that has a timer unit to keep record of the present data (i.e. expiration), and a date setting unit that sets a date of the timer, examiner respectfully disagrees and submits that Ogasawara and Button do indeed teach the calculation of expiration dates and current time settings, but just don't specifically mention a clock. Since the references do teach the expiration date calculation, it would be inherent that there is some sort of internal clock, and the Waxelbaum reference is used to show that a barcode scanner can indeed have additional electronics to house a clock that is able to set dates and be the basis for the calculation of expiration dates. Hence the combination of the references teaches these limitations. In addition, examiner respectfully submits that there is indeed motivation to

Art Unit: 2876

combine Waxelbaum with Ogasawara and Button because it is favorable to have a basic clock unit within the barcode scanner in order to keep track of functions. Hence, prima facie obviousness is established and the 35 U.S.C. 103 rejection stands.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [lisa.caputo@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LMC

February 17, 2005



KARL D. FRECH
PRIMARY EXAMINER